

Meeting of 2011-5-24 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
MAY 24, 2011 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Fred L. Fitch                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
                                         Frank V. Jensen, City Attorney  
                                         Traci Hushbeck, City Clerk  
COL Ray Lacey, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:05 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Deacon Jim Coe, Holy Family Catholic Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
Michael Tennis, Ward Two  
Rosemary Bellino-Hall, Ward Three  
Jay Burk, Ward Four  
Rex Givens, Ward Five  
Richard Zarle, Ward Six  
Stanley Haywood, Ward Seven  
                                         Doug Wells, Ward Eight

ABSENT:                      None

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Jensen requested items #10 and #11 and Wells requested item #24 be considered separately.

MOVED by Burk, SECOND by Shoemate to approve the consent agenda with the exception of item #10, #11 and #24.  
AYE: Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Givens, Zarle. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Kendra Sebo in the amount of \$7,835.62 **(Res. 11-29)** and Jeanne and Leo Meyer in the amount of \$1,367.83 **(Res. 11-30)**. Exhibits: Legal Opinion/Recommendation, Resolution No. \_\_\_\_ and Resolution No. \_\_\_\_.
2. Consider adopting a resolution approving the settlement by a joint petition and making payment in the workers compensation claim of Lena Galloway. Exhibits: **Resolution No. 2011-31.**
3. Consider adopting a resolution approving payment on the judgment in the Workers' Compensation case of Kristi Perdieu in the Workers' Compensation Court, Case No. 2009-09623F. Exhibits: **Resolution No. 2011-32.**
4. Consider approval of the Agreement for Administrative Professional Services with Emily McKee, to work as a summer Legal Intern in the City Attorney s Office, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement is on file in the City Clerk s Office.
5. Consider renewing the professional services agreement with the Center for Economic Development Law for economic development financing methods, and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Retainer Agreement for Professional & Legal Services is on file in the City Clerk s Office.
6. Consider Approving Change Order # 5 for the Rehabilitation of Old Lawton High School Phase III Parking Lots (F.A. Project No. STP-116E(177)EH, State Job Piece Number 26406(04)) subject to approval by the Oklahoma

7. Consider approving Change Order # 6 for the Rehabilitation of Old Lawton High School Phase IV. Exhibits: Architect's Change Order No. 6, dated May 13, 2011.

8. Consider adopting a resolution designating places and times within municipal jurisdiction to discharge fireworks on July 4, 2011, and authorize the Mayor and City Clerk to execute the resolution. Exhibits: **Resolution No. 11-33.**

9. Consider accepting a grant from the Corporation for National and Community Service (CNCS) for the Retired and Senior Volunteer Program (RSVP) for Fiscal Year 2011-2012 funding. Exhibits: Contract will be on File in City Clerk's Office.

10. Consider approving an agreement for cost sharing for new fire hydrant installation in accordance with Policy 6-4 between the City of Lawton and Conner Auto Group at or about 5116 N.W. Cache Road. Exhibits: Agreement.

Jensen stated the agreements in the agenda book for items 10 and 11 reflect a cost share of half by the City and half by the business. It should reflect that the City of Lawton will pay for materials up to the specified amount as per the policy and the business will pay for the labor. He stated he has made changes to the agreements and recommends approval of both items with those changes.

Bellino-Hall questioned if this was the usual way these are done where the business does not incur the entire cost of the hydrant.

Jensen stated yes.

MOVED by Wells, SECOND by Haywood to approve a modified agreement for cost sharing for new fire hydrant installation in accordance with Policy 6-4 between the City of Lawton and Conner Auto Group. AYE: Wells, Shoemate, Tennis, Bellino-Hall, Burk, Givens, Zarle, Haywood. NAY: None. MOTION CARRIED.

11. Consider approving an agreement for cost sharing for new fire hydrant installation in accordance with Policy 6-4 between the City of Lawton and Qwik-N-Go at or about 2213 N.W. Sheridan Road. Exhibits: Agreement.

MOVED by Wells, SECOND by Haywood to approve a modified agreement for cost sharing for new fire hydrant installation in accordance with Policy 6-4 between the City of Lawton and Qwik-N-Go. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

12. Consider approving annual contract renewals between the City of Lawton and the following: County Commissioners (re: Juvenile Detention Center); J. Roy Dunning (re: Children's Shelter); and Roadback (re: Detoxification Center); Lawton Crimestoppers, Inc. (re: Funds from sale of property in police custody). Exhibits: Copies of contracts are located in the City Clerk's Office for review.

13. Consider approving the Memorandum of Understanding between the City of Lawton and the Lawton Metropolitan Planning Organization for metropolitan transportation planning for Fiscal Year 2012. Exhibits: Memorandum of Understanding.

14. Consider approving the Memorandum of Understanding between the City of Lawton and the Lawton Metropolitan Planning Organization for Congestion Mitigation and Air Quality programs and projects during Fiscal Year 2012. Exhibits: Memorandum of Understanding.

15. Consider endorsing the Fiscal Year 2012 Unified Planning Work Program for the Lawton Metropolitan Transportation Planning Process. Exhibits: FY 2012 UPWP.

16. Consider acknowledging receipt of a permit for the construction of waterlines and appurtenances from the Oklahoma Department of Environmental Quality to serve the NW 38<sup>th</sup> Street Reconstruction (Gore Blvd. to Cache Rd) Project #2006-7, City of Lawton, Comanche County, Oklahoma. Exhibits: Permit to Construct dated April 26, 2011 is on file in the City Clerk's Office.

17. Consider acknowledging receipt of Tier I permits from the Oklahoma Department of Environmental Quality for the construction of 125 linear feet of 12-inch waterline, 677 linear feet of 8-inch waterline, 927 linear feet of 8-inch sanitary sewer line, and all appurtenances to serve Saint James Place, Part 2, located approximately mile west of NW 82<sup>nd</sup> Street, south of NW Cache Road in the NE/4 of Section 30, T2N, R12W, Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk's Office.

18. Consider acknowledging receipt of Tier I permits from the Oklahoma Department of Environmental Quality for the construction of 3,465 linear feet of 10-inch PVC waterline, 4,048 linear feet of 8-inch PVC waterline, 7,150 linear feet of 8-inch PVC sanitary sewer line, and all appurtenances to serve West Hill Addition, Part 1, located north of SW Lee Boulevard, east of SW 82<sup>nd</sup> Street in the SW/4 of Section 32, T2N, R12W, Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk's Office.

19. Consider approving the submission of a Safe Routes to School (SRTS) Travel Plan for Pat Henry Elementary School and authorize the Mayor to execute. Exhibits: SRTS Travel Plan for Pat Henry Elementary School.

20. Consider setting the date of June 28, 2011, to hold a public hearing and consider an ordinance closing the right-of-way of University Drive between SW D Avenue and SW Tulane Avenue. Exhibits: Application, Location Map and Council Policy 5-1.

21. Consider awarding a construction contract to OBC, Inc. for the Santa Fe Bridge Replacement Project #2010-2. Exhibits: None.

22. Consider accepting a permanent easement and a temporary easement from Page E. Smith Jr. & Cheryl D. Smith for right of way needed for the NW 82<sup>nd</sup> Street Sewer Line Project #2010-4, authorizing the Mayor and City Clerk to execute the documents and authorizing payment for the same. Exhibits: Documents are on file in the City Clerk's office.

23. Consider approving the record plat for Dollar General Addition. Exhibits: Plat Map.

24. Consider a request for an extension of time for the escrow agreement for the drainage improvements in Dove Creek Addition, Part 3. Exhibits: Letter from Developer, List of Deficiencies and Location of PSO Ground Work.

Wells stated these two items were done before the inspection and apparently we can go back and inspect them. He questioned if this could cause problems.

Richard Rogalski, Planning Director, stated there are a couple of issues. There was miscoordination with some of the improvements and the contractor got a little ahead of himself and that does happen on projects. The larger issue is the line that is being put in by PSO. That line has been delayed and it does go across the drainage basin.

Staff contacted PSO and they said the work should start on May 15<sup>th</sup>. That is why staff is recommending an extension of only 45 days.

Wells stated he wanted to know about the two items that could not be inspected because they have already been covered up.

Rogalski stated they will dig it up for every inspection and before anything is released.

Haywood stated they need to make sure the developer does not cover anything up again.

Rogalski stated sometime it is the subcontractor who does this. He stated they city inspectors do a great job making sure everything gets done.

MOVED by Wells, SECOND by Haywood to approve an extension of time for the escrow agreement for the drainage improvements in Dove Creek Addition, Part 3. AYE: Tennis, Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells, Shoemate.

NAY: None. MOTION CARRIED.

25. Consider extending (RFPCL10-037) Employee Assistance Program (EAP) Services to Deer Oaks EAP Services of San Antonio, TX. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

26. Consider awarding (CL11-024) Footwear (Safety) to Woodward's Department Store of Cyril, OK. Exhibits: Department Recommendation, Abstract of Bids.

27. Consider approving appointments to boards and commissions. Exhibits: None.

28. Consider approval of payroll for the period of May 2 - 15, 2011.

OLD BUSINESS ITEMS:

29. Consider amending the outside water agreement between the City of Lawton, Oklahoma, and McGuire & Wells Development, LLC, by increasing the maximum number of individual meters from 40 to 117 for this water association. Exhibits: First Amendment to Agreement for Sale of Treated Water (on file with the City Clerk).

Jensen stated the Valley View water association is one of 25 water associations outside of the city limits that buy water from the City. He stated they currently have authorization for up to 40 water meters. He stated they have used all of the meters to complete phase one. They have now asked for 77 additional meters which would cover three more phases they have planned over the next several years. He stated staff is recommending approval of the amendments to authorize the 117 meters.

Mayor Fitch questioned if the surcharges are just on the one meter and not the 40.

Jensen stated he has discussed this issue with the City Manager, Finance Director and Councilmember Givens. He stated this surcharge issue will be discussed at the next council meeting. He stated he feels they have come up with a good plan of action for this issue.

Wells stated he would hope that they can figure out some way to have all of the outside associations pay the \$6.50 that the citizens are paying for water for Waurika. The outside customers will be guaranteed water for the future just like Lawton residents and it should be shared equally among all users.

Bellino-Hall questioned if this item relates to just selling the water.

Mayor Fitch stated yes, we are just selling the water.

Wells stated this agreement also established the rate which is 1 the city rate and we are going to charge them one \$2.50 charge instead of 117 \$2.50 charges.

Jensen stated currently they only pay the surcharges on their master meter as do nine other associations. There are fifteen associations that pay on their submeters.

MOVED by Burk, SECOND Tennis to amend the outside water agreement between the City of Lawton, Oklahoma, and McGuire & Wells Development, LLC, by increasing the maximum number of individual meters from 40 to 117. AYE: Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED

30. Consider a resolution authorizing the Mayor to execute a mortgage instrument granting to the McMahon Foundation a security interest in a portion of the City's NW 67<sup>th</sup> Street and Rogers Lane property in order to further assure a source of repayment of the Original Lawton High School remodel construction bridge loan and to buttress the McMahon Foundation's guarantee of that loan. Exhibits: Mortgage Document; Resolution No 11-\_\_.

Jensen stated all the council should remember the \$2.5 million bridge loan that is an old issue. In order to finalize that loan the McMahon Foundation came to our rescue and issued some collateral for the loan. He stated he requested permission to bring back to the council a mortgage document on some property that is owned by the City of Lawton that will secure what the McMahon Foundation has done. They have identified a tract of property that would be sufficient to secure their pledge to us for that bridge loan. There was never the intent to offer up all four of the tracts and they understood it would be one or two. Staff met with Mike Mayhall from the McMahon Foundation and offered tract 1 which is about 18 acres in size and would secure their pledge to Arvest Bank for the \$2.5 million bridge loan. He stated staff is recommending approval of this mortgage for tract 1 only and the easements that go along with tract 1.

Wells questioned if McMahon would have to approve the sale of the property.

Jensen stated no.

MOVED by Wells, SECOND Zarle to approve **Resolution 11-34** authorizing the Mayor to execute a mortgage instrument for tract 1 only. AYE: Burk, Givens, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall. NAY: None. MOTION CARRIED

#### NEW BUSINESS ITEMS:

31. Receive the semi-annual update of the hotel/motel tax funded activities for FY 2010-2011 from the Lawton-Fort Sill Chamber of Commerce. Exhibits: None.

Tim Hushbeck, Chairman of the Lawton-Fort Sill Chamber of Commerce, stated he is proud of what the chamber has achieved this year with the issues they have faced. He introduced the interim President, Debra Burch.

Ms. Burch stated the mid year report was distributed the previous week to the council. She stated that a local company, Raytheon, has announced an expansion that would bring 50 new jobs to the community. They continue to entertain site visits. They have started to prepare an application with the Oklahoma Department of Commerce (ODOC) to have the industrial airport/industrial park site ready certified. They have a new look in the advertisement materials. In tourism, participation has increased in the Wichita Mountain Classic shows. They were able to decrease the cost of production of that show by \$11,000. They have recruited a cycling event for the next three years. They have recruited 17 regional, national and state events that are recruited to be held between 2011 and 2013. She stated the co-op program celebrated its 30 year anniversary this year. Two community focus groups were held to help set the state and federal legislative agendas. She stated the annual trip to Washington, D.C. in April had to be cancelled but a small delegation flew out this week to help advance the federal agenda.

Mayor Fitch stated he was able to sit in on some of the economic development meetings where we were recruiting people and Lt. Governor Todd Lamb has been here seven times since he took office in January. On two occasions the full staff from the ODOC was here along with the Lt. Governor and the full economic development team going through the process. It was very impressive and he was very pleased with the feedback he received from two of the companies. He stated there are defensive contractors that are going to be enhancing their presence here and other defense contractors that would be able to be lured here and that could make a tremendous impact on this community. He looks for some big results in the next twelve months.

Bellino-Hall stated she received something in March that listed ten companies that the chamber was looking at over the past year. She does not see any of these companies here. She questioned if they every go back and do a follow up on why they are not coming here. How do they look at the outcomes?

Ms. Burch stated most of the projects are sent to the chamber by the ODOC and they just have a project name. They send in a proposal based upon the limited amount of information given. When they get follow up it comes from ODOC. She stated six of those projects are still active.

Bellino-Hall questioned if they could go straight to those companies and ask why they didn't come to Lawton.

Ms. Burch stated not those that come from ODOC.

Bellino-Hall stated she understands the interest in defense contractors but the military contracts and expands and she feels they need to look at other people that are not necessarily related to the military. She would like to see a follow up and an outcome of why they didn't choose Lawton.

Mr. Hushbeck stated that is done in the cases where they are working directly with the groups. It was done within the past week. He stated they still maintain contact in case the deal may fall through. He stated economic development is not a quick process and it is very seldom for a major project to take place in less than two years. Most of the business is done through site locators, not individual companies.

Bellino-Hall stated the site locators must be able to tell them why they didn't select us.

Mr. Hushbeck stated that they do follow up with the site locators and they are told why they didn't choose us. He stated there are all types of issues that will determine what a company will do.

Givens questioned if there was any tracking available on the ads that were done in the trade magazines.

Ms. Hushbeck stated when they get a site locator in they will ask how they found out about us, but there is no mechanism to track the ads. He stated they can work on something to get better data on the ads. He stated they do look at readership numbers and demographics before they purchase ads.

Bellino-Hall stated they need to measure outcomes because they are spending a lot of money.

Shoemate stated sometimes it is very difficult to track these ads because results could come in two months after the ad may run. It is not always instant results.

Mr. Hushbeck stated the chamber wants to be as responsible with the taxpayers' money and they want to be effective.

Mitchell stated cities in Oklahoma are very dependent on sales tax and he questioned what the chamber was doing with regards to retail recruitment.

Mr. Hushbeck stated that retail recruitment is not an area that the chamber has been strong. Traditionally, economic development professionals have not looked at retail recruitment as creating jobs, but as job shifting from one retail business to another. He stated he believes in this day and age, we need to all different things. It is

becoming more important for the retail jobs to feed the sales tax for the city.

Mayor Fitch stated it all goes hand in hand and we have a tremendous amount of sales tax leakage out of this community. He stated he has been told by people in retail development that Lawton is retail poor. He does not look at retail developing as all that many jobs, but he looks at it as keeping our expendable dollars in Lawton. That is what raises revenue for the city and we don't have to have tax or rate increases. He stated we need to take advantage of every angle we can in order to increase quality of life in this community and retail market is part of that.

Mr. Hushbeck stated the city of Lawton is an evolutionary stage and is changing and future retail in this community will be a very big part of this. The question was what the chamber is doing towards retail development and he just told the council what the traditional thought was regarding this issue.

32. Hold a public hearing to receive input from citizens regarding the City of Lawton budget for Fiscal Year 2011-2012. Exhibits: None.

#### PUBLIC HEARING OPENEND

Pamela Scoggins Bonnell-Mihalis, stated she is a member of the Library Board. She stated the book budget for 2009-2010 was \$100,000 and in the current year the book budget was slashed to \$41,000. In the proposed budget it is \$40,000. She stated the quality of the library cannot continue at this rate of funding. She stated the budget for this size of town is too low and it should be about \$3 million. She requested they fund the book budget at the same level as it was in 2009-2010.

Mitchell stated she is looking at the library grant which is a state grant. He stated the total set aside is actually \$85,000.

Ms. Bennell-Mihalis questioned if the \$85,000 included the state grant.

Mitchell stated yes.

Ms. Bennell-Mihalis stated the state grant has historically been used for other items.

Mitchell stated the state grant has decreased over the past three years.

Patti Neuwirth, 715 Heinzwood Circle, stated she is President of Friends of the Library. She stated the library is a vital community service. She stated last year part of the budget was spent on the new card catalog system so they knew the budget would be tight for the remainder of the year so they put off buying a lot of things. She requested that they restore the funding for the books.

Haywood questioned how much they were asking for.

Ms. Neuwirth stated they are asking for the \$100,000 that they had received two years ago.

Teresa Jensen, 6807 NW Willow Springs Drive, stated she is representing the board of directors for Lawton Community Theater. She stated this will be their 60<sup>th</sup> season and they are a very vital part of the business and arts community. She stated they will be impacted by a projected decrease of as much as 30% by the National Endowment for the Arts and the Oklahoma Arts Council. They are a consumer in the community and the projected sales tax they will contribute will be approximately \$8,500. They have two full time and two part time staff members. Last year LCT had over 7,000 paid patrons spending an average cost of \$22.53. She stated their budget this year is expected to be \$293,000 and they are requested an allocation of \$50,000 from hotel/motel tax.

Wells questioned their funding from last year.

Ms. Jensen stated \$35,000.

Mayor Fitch stated last year they requested \$25,000 but the Council funded them at \$35,000.

Neil West, President of the board of directors for LCT, stated even with the \$35,000 they received last year, they had to go back in with a budget revision and cut an additional \$6,000 out of their budget. He stated he believes that every penny they have received is worth it.

Givens questioned when they will know their funding level from the Oklahoma Arts Council.

Ms. Jensen stated in July.

Rick Fritsch, President of the Lawton Philharmonic Society, stated they are worried that their grant money from the Oklahoma Arts Council will be cut. He stated they have paid performers who are under a union contract. He requested funding at \$30,000.

Wells questioned their funding from last year.

Mr. Fritsch stated they received \$25,000 last year.

Bellino-Hall stated the reason businesses don't come to this community is quality of life issues. She stated these are quality of life issues and they should give them all the money they want.

Cathy Caccioppoli, 308 NW 32<sup>nd</sup> Street, Executive Director of Lawton Philharmonic Orchestra, stated she would like to see Lawton in national publications. She would like to see some attention given to the things that are happening in the community which will make people want to move here. She stated last year Lawton appeared in the Symphony magazine which is a national publication. She stated these kinds of things are what a professional orchestra can do for a community. She stated they have decreased the cost of tickets for next season to just \$10. Last year they employed 116 people. She stated the residents of surrounding communities use their concerts as an event in their lives.

Steve Newcomb, 1004 NW Bell, president of Lawton Historical Foundation, stated they received \$10,000 in funding last year and they are requesting \$20,000 this year.

Givens stated they also take care of the Mattie Beal Home.

Brian Morris, IUPA Local 24, stated the proposed budget does not reflect the salary increases they have requested. They are in current contract negotiations and he requested they take that into consideration when approving the budget.

Carol Carter, Lawton Enhancement Trust Authority, stated the committee has done so many wonderful projects and it is well worth the consideration for funding.

Wells stated that they received a letter requesting funding from the MacArthur High School drumline but no one is in attendance from that organization.

Burk stated they are a wonderful group of kids and they go to all different kinds of events and they are very well deserving.

PUBLIC HEARING CLOSED

33. Hold a public hearing and consider an ordinance amending Sections 21-3-303, 21-3-304, 21-3-305, and 21-5-504, Chapter 21, Lawton City Code, 2005, modifying the requirements for park land dedication in the platting process and the use of those funds collected in-lieu-of park land dedication. Exhibits: Ordinance No. 11-\_\_\_\_ and Agenda Item Co\$2.mentary of April 26, 2011.

Rogalski stated on April 26, 2011, the Council considered an ordinance modifying the park land dedication requirements in the platting process and how the money-in-lieu of park land funds can be used. During the meeting another amendment was suggested which would prohibit developers from dedicating public neighborhood parks. Section 21-5-504.C.1 of the ordinance was revised per City Council direction. The City Attorney felt the additional amendment was substantial and that a new public hearing notice should be given.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Zarle stated it has been about 15 years now in the mill to get this money to where they can put it back into the community.

MOVED by Burk, SECOND by Tennis, to adopt **Ordinance 11-16**, waive the reading of the ordinance, read the title only. AYE: Zarle, Wells, Shoemate, Tennis, Bellino-Hall, Burk. NAY: None. ABSENT: Givens, Haywood. MOTION CARRIED

(Title read by City Attorney)

Ordinance 11-16

An ordinance related to subdivisions amending Sections 21-3-303, 21-3-304, 21-3-305 and 21-5-504, Chapter 21, Lawton City Code, 2005, modifying the requirements for park land dedication in the platting process and the use of fee-in-lieu of park land dedication funds and providing for severability.

34. Consider amending Ordinance 11-04 in order to maintain the closing, vacating, and discontinuing certain streets, easements, and other rights-of-way in portions of the North Addition located in the Downtown Redevelopment Project area but to delete and rescind any reference to the closing, vacating, and discontinuing

certain streets, easements, and other rights-of-way in portions of the Vernon Addition. Exhibits: Ordinance No. 11-\_\_\_\_ Amending Ordinance No. 11-04 and Location Map.

Jensen stated earlier in the year they closed and vacated a portion of the Railroad Street right of way that is the eastern boundary for the 2<sup>nd</sup> Street project. They did so for the purpose of supporting the redevelopment on 2<sup>nd</sup> Street. What was closed and vacated at that time was to the center line of the Railroad Street right of way because they thought they would have to accommodate the Kohl's parcel, and potentially some other parcels, that were going to extend past or up to that center line. As things developed, they determined they did not have to go that far because their plans had changed. Staff is proposing to draw that line back from the center line, further to the west, where they are now modifying this closing and vacation of that previous ordinance to a strip on the western side of the Railroad Street right of way that would range from approximately 17 feet to 26 feet. This will have minimal impact on the paved portion of the Railroad Street right of way and that is all that is needed at this point in time by Kohls and other potential businesses.

MOVED by Givens, SECOND by Zarle, to adopt **Ordinance 11-17**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Givens. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 11-17

An amending ordinance, amending Ordinance No. 11-04, closing, vacating, and discontinuing certain streets, easements and other rights-of-way in portions of the north addition to the city of Lawton, Oklahoma, according to the recorded plat thereof, all in accordance with the Lawton D6 Urban Renewal Project Plan and the Lawton Downtown Economic Development Project Plan; expunging and deleting any reference to areas located outside the north addition; provide for severability; and declaring an emergency

35. Consider an ordinance amending Section 7-12-1-1201 adding the definitions of temporary structure and temporary use, and creating Division 7-12-2, Chapter 7, Temporary Structures and Uses, and amending Section 14-1-107, Chapter 14, Lawton City Code, 2005, amending the regulations for commercial use of mobile homes and declaring an emergency. Exhibits: Ordinance No. 11-\_\_\_\_.

Rogalski stated recently there has been an increase in the number of temporary businesses in Lawton, and the Lawton City Code does not provide regulations for all of these uses. The City Attorney's Office, License and Permits Center, and Planning Division have worked together and drafted this ordinance which encompasses these uses and the structures associated with them. Section 7-12-2-1250 of the proposed ordinance lists the temporary structures and uses that would be permitted, the maximum length of time the temporary structures and uses would be permitted, and any special requirements. A separate agenda item is a resolution establishing fees for these uses.

The intent of this ordinance is to provide for limited temporary uses for economic benefit while minimizing the impact on the community and attempting to also protect the similar businesses with permanent locations and not destroy the incentives for some of these temporary permittees to invest in a permanent location. He stated this is a fee for every type permit and there is also a deposit which is for clean up.

Burk questioned if someone wanted to sell firewood in front of his business does he have to have a permit.

Rogalski stated yes.

Burk stated he is concerned about the amount of the deposit for some of these businesses. He does not have a problem with the permit fees. Some of these people who come into town with seasonal businesses are not going to put up a \$1,000 for 30 days worth of work. We need to try to be more friendly to the people who are coming into town. He would like to see them adjust some of these deposit amounts.

Tennis questioned if the deposit check was actually cashed and then they are reimbursed.

Rogalski stated they hold onto the deposit until their work is complete and then they come back and get it. He stated they had to look at the amount of work it would take to clean up. He stated those numbers were put in by the License and Permit Division and he does not have a good feel for what those numbers should be.

Burk stated they are a little out of line.

Givens questioned who requested the ordinance.

Bryan Long, Assistant City Manager, stated they have tried to compile a list that is both friendly to our business community and also entertains some of these quality of life issues. He stated batch plants are one example of things we want to limit in our community. Landscaping tents have a very different impact on the community.

Shoemate questioned how this deals with those farmers that come in and sell their produce.



Long stated his primary thought in pulling this ordinance together is that the local business people should have a distinct advantage within their local market.

Bellino-Hall stated this ordinance came about because people were complaining about other people setting up unsightly looking places around town and selling things.

Wells stated there may be another business set up that is in competition with a permanent business in the area.

Mayor Fitch stated they are trying to avoid an out of town person coming in and setting up a temporary business for several weeks and being in direct competition with other businesses in this community. If they are going to do that, they need to pay something for it. He stated a good example is that you have Bedrock Nursery that has a permanent nursery on Lee Boulevard and they set up a temporary tent for about 6-8 weeks on Cache Road and their permit is running out. He stated there needs to be some change in the ordinance in order for them to get their permit renewed.

Wells stated there is another business that sells the same thing just down the street at a permanent location who is complaining about someone coming in and setting up a temporary location.

Long stated there are circumstances where a temporary business coming in is a benefit to the community, for example a dent and dig business. The code has been broadened to accommodate some of the more practical uses.

Zarle stated he would like to see the proposed ordinance allow for at least 8 weeks of business instead of 6 in between the 12 week period.

Burk questioned what they were going to do about these companies that come in on weekends and set up shop without getting the permit. There is a problem because we don't go after these people.

Long stated the police do stop businesses like this when they are reported. He stated they are never going to stop all of them. He stated what is more important with this code is what we are going to make allowances for.

Preston Dewolf, stated his family owns the Land Shapers at 7215 Cache Road. He feels temporary permits are fine for some businesses, but he is there twelve months out of the year waiting for the same eight week window of opportunity that everyone else is waiting for. It has a huge impact on him when someone else sets up the same business a mile and a half away. Why is a temporary business more important than someone who is there all year long. He feels there should be some provision that prevents temporary businesses from impacting businesses that are already established. He feels they should give them some space.

Haywood questioned if there should be a certain distance specified in the ordinance.

Mr. Dewolf stated we should not allow the opportunity for someone to cut into someone else's business. They need to give the business owner a little bit of space.

Dennis Tottie, co-owner of Bedrock Nursery, stated there is a very small window of opportunity to make money during the year, which is ten weeks in the spring and eight weeks in the fall. They do have a main location on Lee but they also have a satellite location 6310 NW Cache Road. He would request the Council consider a ten week permit twice a year. He stated his business provides jobs for 20-30 individuals as well as providing locally grown plant material for citizens of Lawton. He stated with regards to the debate of a mile or half mile, they have WalMart a mile north and Home Depot and Lowes are a mile away. It is not a matter of trying to put someone out of business, but they are collecting tax dollars and contributing to sales tax for the City.

Tenis stated they are not talking about putting anyone out of business, but just requiring a permit.

Mr. Tottie stated the issue really is the six or eight weeks permit and he would like to have the permit for ten weeks. His point is why not collect taxes for 20 weeks out of the year instead of 12 or 16 weeks.

Mayor Fitch stated in order to sell plants you need about ten weeks in the spring and eight weeks in the fall.

Bellino-Hall stated the real issue is the proposed ordinance says, relating to seasonal sales, that no permit will be issued for a location one-quarter mile of an existing permanent business. She questioned if anyone had a problem with that section. She stated Mr. DeWolf feels they are located too close.

Mr. DeWolf stated he feels there should be more room between the businesses since everything that is sold by Bedrock Nursery is sold at his nursery.

Mr. Tottie stated this is just friendly competition.

Bellino-Hall questioned what Mr. DeWolf felt was more room.

Mr. DeWolf felt it should be a mile or mile and half.

Mr. Tottie stated they are in a permanent location twelve months out of the year.

Mr. DeWolf stated he established his business there because of the location and this temporary business is impacting his business.

Long stated he invited both business owners to a meeting as well as Councilmember Zarle. He stated several changes in the proposed ordinance are a result of this meeting. He stated they identified reasonable boundaries based upon the input they received from that meeting.

Haywood stated there are some problems here they need to resolve and he questioned if they really needed to do this tonight.

Billy Franklin, co-owner of Bedrock Nursery, stated they chose that satellite location because of the amount of area available. They bring in semi trailers and they needed that much room to unload their product.

Burk stated since they have had a meeting with all of the parties involved, he questioned if everyone agreed with the recommendations.

Long stated there are some passionate issues being debated here, but this proposed ordinance includes those things that were provided to reach a solution.

Tenis stated they are opening a pandora s box if they try to regulate what business will compete with another business.

Burk stated they have made some concessions with this ordinance. If adopted Mr. Tottie will get six weeks of selling time which will give Mr. DeWolf a longer selling time. He stated Mr. Tottie is half mile away, but he is not directly across the street. They have to come to some kind of an agreement.

Zarle stated six weeks is tight.

MOVED by Zarle, SECOND by Givens, to adopt **Ordinance 11-18** amending the selling period to eight weeks.

Bellino-Hall stated she feels the compromise is already done. Mr. Tottie doesn t get ten or twelve weeks, he gets six weeks and that is the compromise.

SUBSTITUE MOTION by Burk, SECOND by Tenis, to adopt **Ordinance 11-18** as written with six week selling period, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Wells, Shoemate, Tenis, Bellino-Hall, Burk. NAY: Givens, Zarle, Haywood. MOTION CARRIED (EMERGENCY CLAUSE FAILED)

(Title read by City Attorney)

Ordinance 11-18

An ordinance pertaining to businesses, amending Section 7-12-1-1201, Chapter 7, Lawton City Code, 2005 adding the definitions of temporary structure and temporary use; adding Division 7-12-2, temporary structures and uses, Chapter 7, Lawton City Code, 2005; amending Section 14-1-107, Chapter 14, Lawton City Code, 2005, amending the regulations for commercial use of mobile homes; providing for codification and severability; and declaring an emergency.

36. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, to establish fees for temporary uses. Exhibits: Resolution No. 11-\_\_.

Rogalski stated with the failure of the emergency clause, they now have thirty days to pass these fees. He requested some direction for modifying the deposit fees.

Burk questioned if they could cut them in half.

Tenis suggested they table this item and not get in a rush.

MOVED by Tenis, SECOND by Givens, to table. AYE: Shoemate, Tenis, Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

AUDIENCE PARTICIPATION:

Kim Shahan, Parks and Recreation Director, reported on the race associated with Spirit of Survival.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Mayor Fitch thanked COL Lacey for serving as the Fort Sill liaison.

COL Lacey thanked the council members for his learning experience.

Bellino-Hall stated her constituent can now get in touch with her through facebook.

Burk announced they are working on getting a direct bus route from downtown to LETRA. The route will also go on Fort Sill. They hope to start in July.

Wells questioned if staff is close to bringing back an ordinance regarding the rabies vaccinations. He stated two vets have contacted him regarding the three year rabies shots.

Jerry Ihler, Public Works Directors, stated he would like to have some guidance regarding the issue. He stated staff polled six vets in the community and they would rather us leave it as a one year shot because they are afraid that if they go to a three year shot the pet owner will only bring their pet in every three years. He stated he has gathered a lot of information on this subject and he can bring back a proposed ordinance.

Wells stated that the humane society is also recommending the three year. He understands that Edmond, Norman and Oklahoma City are doing this.

Ihler stated most of the communities allow for a three year or one year vaccine.

Mitchell questioned if the owner would have the option of doing this every three years or every year.

Ihler stated yes. Some communities do either/or.

Bellino-Hall stated a lot of vets will give the three year vaccine even though our ordinance is once a year.

Wells questioned if someone got a three year vaccine does our ordinance require them to go back every year.

Ihler stated they would have to get their city tag every year. The pet owner would have to provide us with documentation from their vet saying they received the three year vaccination.

Bellino-Hall stated she talked with Dr. Bower about this and he gives the three year vaccine and assumes it is a one year vaccine. She stated to be licensed in Lawton you have to have a vaccine every year. He is concerned that if people don't come back every year, they will let the health of their animals deteriorate. In other communities they license them for three years with the three year vaccine.

Wells stated he was told by Dr. Hergenrether that there are other shots they have to get every year so they will bring them back every year.

Ihler stated the only one we require is the rabies vaccine.

Mayor Fitch questioned if we could just approve the license for three years.

Ihler stated that is what they need to determine.

Wells requested staff bring back a proposed ordinance.

Haywood stated he would like to bring back the discussion of the budget cuts for the library books and the demolition account.

Mitchell stated there will be a budget workshop scheduled for June 1<sup>st</sup> at 1:30 p.m.

Mayor Fitch announced he has been appointed to the Oklahoma Municipal League Board of Directors. He stated there is a possibility there could be a burn ban in place for the July 4<sup>th</sup> time frame.

Ihler stated they are looking at a 2-3 week delay on finishing the Gore Boulevard project.

The Mayor and Council convened in executive session at 8:32 p.m. and reconvened in regular, open session at 9:31 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

37. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2011-2012, between the American Federation of State, County and Municipal Employees (AFSCME) Local 3894, and, if necessary, take appropriate action in open session. Exhibits: None.

Mayor Fitch read the title of item #37. No action was taken.

There being no further business to consider, the meeting adjourned at 9:33 p.m. upon motion, second and roll call vote.

\_\_\_\_\_/s/ Fred L. Fitch\_\_\_\_\_  
FRED L. FITCH, MAYOR  
ATTEST:

\_\_\_\_\_/s/ Traci L. Hushbeck\_\_\_\_\_  
TRACI HUSHBECK, CITY CLERK